

TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS

REGULAR SESSION

OCTOBER 22, 2007 - 7:30 P.M.

AGENDA

Roll Call

Motion to accept minutes of 8/27/07; 9/10/07; 9/24/07 meetings as written.

PRELIMINARY MEETINGS:

1. **CHRISTOPHER MEE (07-53)** Request for 1 ft. Front Yard Setback and; 5 ft. Side Yard Setback for proposed 10' X 22' Deck at 738 Mt. Airy Road in an R-3 Zone (66-1-8)
2. **WILLIAM HIGHTOWER (07-54)** Request for 8 ft. Rear Yard Setback for existing detached deck at 15 Valewood Drive in an R-4 Zone (39-3-23)
3. **EVE FRED A (dba Freda Home Professional Office/RLF Management Inc.) (07-55)** Request for Variance to the provisions for Home Professional Offices which restricts the operation to employ no more than one person. Applicant proposes to employ five employees in the business. Applicant proposes a total of seven off-street parking spaces (Definitions - Section 300-89) in an R-4 Zone (47-1-35) As referred by Planning Board:
4. **NEW WINDSOR SENIOR PROJECT (07-56)** Request for variances to construct senior housing project in Vails Gate area (as referred by Planning Board (07-01)) in an R-4 Zone (46-1-46)

PUBLIC HEARINGS:

5. **ANTHONY GILLMEIER (07-43)** Request for 4.5ft side yard setback and; 6ft rear yard setback for existing shed at 112 Cedar Avenue in an R-4 zone (18-3-12)
6. **JEFFREY DUNKO (07-48)** Request for 4 ft. Side Yard Setback and; 5 ft. Rear Yard Setback for proposed pool at 2518 Constitution Way (The Reserve) in an R-3 Zone (77-7-18)
7. **FRANCES HALES (07-51)** Request for 15.5 ft Side Yard Setback and; 2.5 ft Total Side Yard Setback and; 19 ft. Rear Yd Setback for proposed addition at 109 Erie Ave in an R-4 Zone (26-1-10)

8. **JOANN MANGIARACINA (07-52)** (As referred by the Planning Board) Request for :

REQUIRED SIDE YARD - SILO	40 ft.	2.3 ft	37.7 ft.
REQUIRED SIDE YARD - BARN	40 ft.	24.3 ft.	15.7 ft.

for existing Barn and Silo at 122 Toleman Road in an R-3 Zone (56-1-56)

9. **JONATHAN GODFREY (07-49)** Request for 5 ft. Side Yard Setback and; Variance of [300-11-A-3 No accessory building shall project nearer to the street on which the principal building fronts than such principal building.] for proposed pole barn at 271 Riley Road in an R-3 Zone (35-1-86.2)
10. **LAPIDUS/KOCH (07-57)** Request for variance of 4,164 s.f. of minimum lot area for Lot #1 (As referred by Planning Board) located on Lake Road in an R-4 Zone (58-5-1)

(NEXT MEETING – MONDAY, NOVEMBER 5, 2007 – 7:30 P.M.)

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OCTOBER 22, 2007

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KIMBERLY GANN
KATHLEEN LOCEY
PAT TORPEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: ERIC LUNDSTROM

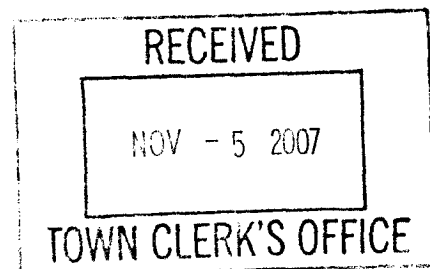
REGULAR MEETING

MR. KANE: I'd like to call the October 22, 2007 Town
of New Windsor Zoning Board of Appeals meeting to
order.

APPROVAL OF MINUTES DATED 8/27/07, 9/10/07 & 9/24/07

MR. KANE: Motion to accept the minutes of 8/27, 9/10
and 9/24/07.

MS. GANN: So moved.



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MS. LOCEY: I'll second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PRELIMINARY_MEETINGS

CHRISTOPHER_MEE_(07-52)

MR. KANE: Christopher Mee. Request for 1 foot front yard setback and 5 foot side yard setback for proposed 10'x 22' deck at 738 Mt. Airy Road.

Mr. Christopher Mee appeared before the board for this proposal.

MR. KANE: What we do in New Windsor so everybody understands is we hold two meetings, a lot of towns in New York don't do that. The preliminary meeting gives you the opportunity to tell us what you want to do and for us to let you know what we need to make a decision on that. So, therefore, you will probably get the same questions at the public hearing that you get tonight and maybe a little bit more intense. Okay, so tell us what you want to do.

MR. MEE: Basically, a 10 x 22 deck off the kitchen, it's just a relatively small area for eating and grilling, it's part of the rehab of the property that I'm doing right now. The feedback from the neighbors has been all positive, they're happy to see the house being brought back to life, it's been vacant I guess for 12 years.

MR. KANE: Create any water hazards or runoffs?

MR. MEE: No, sir.

MR. KANE: Cut down any trees, I know the questions might seem absurd from the pictures but I have to ask, cut down any trees or substantial vegetation?

MR. MEE: No, not at all.

MR. KANE: Any easements running through where you want

to put the deck?

MR. MEE: No, sir, there are wetlands in the back but I have been flagged by the DEC and we're well within the hundred foot boundary, we're over it.

MR. KANE: Deck is similar in size and nature to other decks in that particular neighborhood?

MR. MEE: Yes, sir.

MR. KANE: I see a door coming out to the side, obviously, where the deck is going to go, that would be considered a safety hazard if you didn't have something there?

MR. MEE: If I didn't, yeah.

MR. KANE: Was there ever an existing deck there?

MR. MEE: There was what's allowed and I have spoke with Frank Lisi about it, it's a 3 x 3 landing which I didn't think sufficient for the house. It's getting completely redone, so I thought it would be a necessary addition.

MR. KANE: Okay, pictures are fine. Any further questions? If not, I'll accept a motion.

MS. GANN: I will offer a motion to set up Chriss Mee for a public hearing for his request for 1 foot front yard setback and a 5 foot side yard setback for proposed 10 x 22 deck at 738 Mt. Airy Road.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE

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MR. TORPEY
MR. KANE

AYE
AYE

WILLIAM_HIGHTOWER_(07-54)

MR. KANE: Request for 8 foot rear yard setback for existing detached deck and 3 foot side yard setback and 8 foot rear yard setback for existing 8' x 12' shed and 18 foot rear yard setback for existing enclosed porch at 15 Valewood Drive.

Mr. William Hightower appeared before the board for this proposal.

MR. KANE: Good evening, Mr. Hightower.

MR. HIGHTOWER: Hello everybody.

MR. KANE: Tell us what you want to do, sir.

MR. HIGHTOWER: I have a shed that I bought that was there rather the shed was there when I bought the house and it's run its life's use and I want to knock it down and I want to move it to the left-hand side of the property in the rear because right now where it is it's in an awkward spot, it's a one foot, it's one foot, it's like a couple inches from the house. So according to the codes that's not legal. So I want to move it away from the house to the rear of the property. The screened-in porch when I purchased the house was part of the house and that too is wearing its life away and I have to replace it. So if I'm going to bother to replace it I might increase the size marginally and requesting a variance for that. And the deck I need a variance also for, when I put that up, I put it in the rear of the property and that has to be part of this also.

MR. TORPEY: You're not knocking the shed down?

MR. HIGHTOWER: Yeah, I'm going to knock it down, new shed, move it in the rear of the property.

MR. TORPEY: You said you're going to knock it down and move it.

MR. HIGHTOWER: No, that's got to go in the garbage.

MR. KANE: Let's take the shed first. There's no place in your property right now to put the shed that wouldn't require a variance?

MR. HIGHTOWER: No, I can't say that I can put it right where it is, it's just that it's--

MR. KANE: Then again if it was right where it is then it wouldn't be, it's not legal either.

MR. KRIEGER: The shed's in the front yard, isn't it?

MR. HIGHTOWER: No, it's in the back yard, it's in the back of the house.

MR. BABCOCK: Touching the back corner of the house, should be by code 6 feet away.

MR. KANE: So it's not legal in that spot in any case?

MR. HIGHTOWER: Right, and it's in an awkward spot.

MS. GANN: How large is the new shed?

MR. HIGHTOWER: Ten by twelve.

MS. GANN: How does that compare to the old shed?

MR. HIGHTOWER: It's basically the same size.

MR. KANE: Similar to other sheds in your neighborhood?

MR. HIGHTOWER: Yeah.

MR. KANE: Any complaints about that shed formally or

informally?

MR. HIGHTOWER: No.

MR. KANE: Just to speed it up on all of your applications, have there been any complaints formally informally about the deck on the rear?

MR. HIGHTOWER: No.

MR. KANE: Concerning the shed, and what about the enclosed porch, any complaints on that?

MR. HIGHTOWER: No.

MR. KANE: The deck itself is for, it's not attached to the house and it's for a pool use?

MR. HIGHTOWER: No, it's for the pool, yes, in fact, my wife can't make a straight a ladder into the pool, that's the main reason why I put the deck there.

MR. KANE: Any easements running through your property?

MR. HIGHTOWER: No.

MR. KANE: Will you be cutting down any trees, substantial vegetation?

MR. HIGHTOWER: No.

MR. KANE: Creating any water hazards or runoffs?

MR. HIGHTOWER: Not at all.

MR. KANE: Once we get to the public meeting, you understand that even if everything is passed by the board that it still has to pass inspection by the building department?

MR. HIGHTOWER: Sure, no problem.

MR. KANE: No further question from me. Anybody else on the board? I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of William Hightower for the requested variances as detailed on the agenda of the New Windsor Zoning Board of Appeals meeting of October 22, 2007.

MS. GANN: I'll second the motion.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

EVE_FREDA_(DBA_FREDA_HOME_PROFESSIONAL_OFFICE/RLF_

MANAGEMENT,_INC.)_(07-55)

MR. KANE: Request for variance to the provisions for home professional offices which restricts the operation to employ no more than one person. Applicant proposes to employ five employees in the business. Applicant proposes a total of seven off-street parking spaces.

MR. MINUTA: Good evening members of the board, Joseph Minuta, Minuta Architecture representing RFL Management for this application. The current use has been in existence since 1972,. Miss Freda's father previously owned the property, he operated it as a printing business and when he passed away she inherited the property and ran that as a RLF Management which is a home business that utilizes medical billing. She has three relatives family members who are employed there as well as an adjoining property owner who also works there so she could be considered green if you will where they don't have to commute to work. We're here tonight, there's, we filled out both sides of the application which was for the variance for use and we also filled it out for an area variance because in our opinion we believe it's an area variance based on the number of people that are going to be at the location and the previous zoning. Also we also meet the previous zoning as far as 7 spaces is concerned, that was part of previous zoning. That's about it.

MR. KANE: Joe, it's been in existence 17 years?

MR. MINUTA: It's been in existence as RLF from 1988 from 1972, her father had owned the property as a home business which was a printing place.

MR. KANE: How many people have worked there totally over the last couple years?

MR. MINUTA: Five for some time, yes.

MR. KANE: Have there been any complaints formally or informally?

MR. MINUTA: No. Well, there's been one complaint which is why we're here before you. We have one complaint which is on file with the, with your offices. We also have a letter here that I will present to the board of the neighbors who are in favor of this application and they have signed on all the pages. So what we're looking to do this evening is seek a variance from you, obviously, at the public hearing and move on so we can formalize this business that's been in existence.

MS. LOCEY: What kind of business is it?

MR. MINUTA: They do medical billing.

MS. GANN: Just for the record, Joe, this is one company within this entire building?

MR. MINUTA: No, she's owner occupied, she lives there and it's her home business.

MS. GANN: But just one business?

MR. MINUTA: Yes, one.

MR. KANE: How many homes in the general immediate area?

MR. MINUTA: I'm going to say there's probably 12 homes within that little development.

MR. KANE: We've got ten signatures. Okay, none of the standard questions apply.

MR. KRIEGER: Well, I think the position of the town is it's an area variance because it's an allowed use, it's

a special permitted use, the permit has to come from the planning board but with that, it's an allowed use and it's just numbers. I should think among other things you want to ask about if these parking places are full does that impair the view of motorists?

MR. KANE: Right, any of the parking, well, we'll bring it up at the public hearing but any of the parking spaces here specifically number 7?

MR. KRIEGER: Seven, six, five and four.

MR. KANE: Going to inhibit the view from Louise Drive?

MR. MINUTA: There's no view, it's a cul-de-sac and we have a hedge row with a fence.

MR. KANE: They pull right in?

MR. MINUTA: Exactly.

MR. KRIEGER: So I should think for the final you want to have at least pictures of that.

MR. KANE: We've got one right over here. Joe's on the ball. The parking that's an existing paved parking area?

MR. MINUTA: Yes.

MR. KANE: And there's no problem with area coverage?

MR. MINUTA: No.

MR. KRIEGER: How big are the parking spaces?

MR. MINUTA: Standard stalls as far as size is concerned.

MR. KRIEGER: Cause the old, they have to meet the

current zoning.

MR. BABCOCK: Yeah, the current zoning is actually less today, it's 9 x 18, it used to be 10 x 20, so I'm sure they comply, the planning board is going to make him comply if they don't.

MR. MINUTA: They do.

MR. KANE: Okay, I think we have enough. Any further questions from the board? We have pictures of the cul-de-sac.

MR. KRIEGER: Unless your client is here, you'll need a proxy.

MR. MINUTA: She's here.

MR. KRIEGER: And also and I'm sure the board will want to go and it's further in the formal hearing but the nature of this business is there are no clients, customers, whatever?

MR. MINUTA: No, and that's exactly right.

MR. KRIEGER: It's unlike some uses which are service uses which would have somebody coming in so your reason for the variance is that the, your reason for having only 7 parking that's all you need because you just need parking for employees.

MR. MINUTA: That's correct. There's no coming and going of clientele if you will.

MR. KANE: Okay, accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of Eve Freda a d/b/a Freda Home Professional Office/RLF Management Inc. for the requested variances as detailed on the agenda of the

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Zoning Board of Appeals meeting dated October 22, 2007.

MR. TORPEY: I'll second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

NEW_WINDSOR_SENIOR_PROJECT_(07-56)

MR. KANE: Request for variance to construct senior housing project in Vails Gate area (as referred by Planning Board).

MR. EWALD: Good evening, Travis Ewald from Pietrzak and Pfau. This is Mr. Mendelbaum. Our project is proposing 90 units of total affordable senior housing, at a parcel with access off of New York State Route 32, it's approximately 4 acres in size. And we're seeking variances for the lot density, the parking calcs, we'd like that reduced from one space per unit to instead of two spaces per unit and for the requirement of 25 foot separation between the sidewalk and the proposed buildings. And the final variance would be from the building requirements for the senior housing we'd like New York State Division of Housing to regulate the building requirements.

MR. KANE: Cutting down trees, substantial vegetation in the building of the project?

MR. EWALD: There will be some clearing of trees.

MR. KANE: What about creating water hazards or runoffs?

MR. EWALD: A full storm water pollution prevention plan has been prepared and there will be no increase in runoff and there will be treatment for all water quality.

MR. KANE: No existing easements running through?

MR. EWALD: There's several easements for two sewer mains which run through the northeastern portion of the project between the buildings and the existing stream.

MR. KANE: The easements are not going to be covered by

the buildings or parking?

MR. EWALD: No.

MR. KANE: And the proposal is for 25 units?

MR. EWALD: The proposal is for 25 units per acre and the allowable is 18 per acre. The buildings are three story buildings with center hallways, fully sprinklered.

MR. KANE: This is going to be senior housing where they just come in and like an apartment or--

MR. EWALD: Yes.

MR. KANE: So there's no, basically no employees or anything like that that's going to be there?

MR. MENDELBAUM: There's employees, there's management on site and a super that lives on site, just like a regular apartment building.

MR. KANE: It's 66 spaces with 25 units although underneath you need a variance, really shouldn't be too bad.

MR. EWALD: No.

MR. BABCOCK: There should be a paper, does he have the paper I made out today?

MS. MASON: Yes.

MR. BABCOCK: On that paper it will tell you how many units they're proposing.

MR. KANE: Sixty-six.

MS. LOCEY: No, that's what's allowed.

MR. EWALD: We're proposing 90 units plus one superintendent's unit.

MR. KANE: I stand corrected. For the public hearing could you just bring a couple of pictures in of the site?

MR. EWALD: Certainly.

MR. KANE: From the various angles from Route 32 looking at where the driveway will come in.

MR. EWALD: Okay.

MR. KANE: Just give us an overview.

MR. EWALD: Okay.

MR. TORPEY: The driveway's coming in off the existing parking lot, right?

MR. EWALD: Correct.

MR. KANE: There's an existing easement.

MR. TORPEY: They're just coming off the back end of it?

MR. MENDELBAUM: Correct.

MR. KANE: Pictures don't hurt.

MR. KRIEGER: I have a couple things. First of all, Mike, is it the position of the town this is an allowed use?

MR. BABCOCK: Yes, it is.

MR. KRIEGER: So we're talking area variance here?

MR. BABCOCK: That's correct.

MR. KRIEGER: Secondly, I'm, for the information of the board, I don't think this board has jurisdiction to decide who is going to supervise the construction, whether it's the town building department or New York State or anybody else. I don't think it's within the jurisdiction of the ZBA to alter that in any way. Variances may or may not be granted but as to the details of the construction but as far as who is going to do what in essence is the field supervision that's not within the jurisdiction of the board. The last thing which is for the applicant why is it that you're proposing that you think that .72 parking places .71, whichever it is parking places per unit would be adequate?

MR. MENDELBAUM: From our experience in all our sites most of our sites we only have half a space per unit and that's ample parking from our experience. People who live there on a fixed income, most of them actually don't have cars, so we have been through over 600 apartments that we have experience with through the 10 years that we have been doing it that we can tell you for sure that it is not used.

MR. TORPEY: Well, they're seniors too.

MR. MENDELBAUM: Absolutely, most of the people are a specific income criteria required to live here and good portion of them will not have cars at all. But can I go back to the building with the request for a variance is not who inspects the building, it's a design of the building. Your board, your Town Board created specific design criteria for total affordable housing and New York State Division of Housing has specific requirement for their building and that's what we need a variance for the design criteria of the building, not the inspection, the inspection would be your building

department.

MR. KRIEGER: Whichever it is if the Town Board has requirements for the design requirements it's not within the legal power of this board to sit as an appeals body for the Town Board.

MR. BABCOCK: Well, it's the zoning code and zoning code states that they just, one idea it states that the stoves cannot be open flame. In other words, they can't be a gas stove, that's one of the Town of New Windsor requirements. What he's saying is that he doesn't want to follow New Windsor requirements cause he's subject to New York State requirements.

MR. MENDELBAUM: New York State Division of Housing, although most of the stuff that the town asks is almost identical to what you want but there's a few things so instead of going--

MR. BABCOCK: I went over some of the stuff with the applicant today and the three or four things that we touched on through the code he either meets or exceeds them.

MR. TORPEY: Safety.

MR. BABCOCK: It's a safety thing, it's the size of the units, he's over the size of our requirements.

MR. MENDELBAUM: They have their own criteria.

MR. BABCOCK: There's two sets of criteria.

MR. KRIEGER: The project as it's proposed meets the town criteria.

MR. BABCOCK: Maybe not all of it, it meets the state, he wants to comply with the state not the town.

MR. KANE: Towns can make it more restrictive but not less so--

MR. MENDELBAUM: It's the state and the town is a little bit different. I think from memory the town may want like 18 square feet for storage and the state prefers to have it 15 feet of storage but one more room in the apartment. You follow me? So, I mean, 3 feet here, 2 foot here, so I thought make life easier instead of going back and forth once I'm done with the planning board here I have to submit the complete application with a building design to New York State Division of Housing and they have the design division who actually reviews, architects who review the building according to New York State Division of Housing requirement. I don't want to go to him with his requirement and revise with their requirement and go back revise with their requirement. Architects are not cheap, their building designer will be probably close to \$150,000 by the time we're done. I want to design it once, meet the state requirement cause I don't have the money to, you know.

MR. BABCOCK: If he designs it to the Town Code the state will not approve it.

MR. KRIEGER: Yeah, from what I understand he meets most of the Town Code, there are a couple of provisions that he doesn't meet.

MR. BABCOCK: That's correct.

MR. KRIEGER: With respect to the jurisdiction of this board without specifically researching it which I haven't done yet but my first reaction is I would feel more comfortable with this board granting variances for those to entertain applications for variances for those things that they want varied as opposed to some blanket--

MR. BABCOCK: They're under one section and it's 300-18 (i), these are the general requirements for the units, building design, general requirements for the building so if he wants relief from that section of the code--

MR. MENDELBAUM: And not, you say as requested by New York State Division of Housing because they're going to review it.

MR. KRIEGER: I don't think it's within the power of this board to grant some blanket variance that may or may not fit later on, you know, sort of a wild card if you will just go up to New York State and say well--

MR. BABCOCK: It's not a wild card, it's a section of the zoning code.

MR. KRIEGER: I understand that but what I'm saying in order for the board to act on it they would need to know specifically what's being varied and they're not just going to--

MR. BABCOCK: This section of the code is being varied.

MR. KRIEGER: In total?

MR. BABCOCK: It's 300-18 (i)

MS. LOCEY: General building and unit requirements.

MR. BABCOCK: That's correct.

MS. MASON: It's attached to your paperwork there.

MS. LOCEY: I just wanted to make sure.

MS. MASON: Yeah, that's it.

MR. BABCOCK: In my mind, it's just like the one prior to that which is a 25 foot setback, it's a section of

the code.

MR. KRIEGER: Well, I understand that it's a section of the code but in this particular case and I haven't looked at it specifically but you said it's called general design criteria?

MR. BABCOCK: Yeah, general building compliance.

MR. KRIEGER: Encompasses a number of items, does it not?

MR. BABCOCK: That's correct.

MR. KRIEGER: Unlike what you were citing which is a single item.

MR. BABCOCK: Right, yeah, there's several items within the code Section 300-18 (i).

MR. KRIEGER: What would the board be asked to vary?

MR. BABCOCK: The entire section.

MR. MENDELBAUM: Can I give you a quick sample, talking about the common space, your code says for common space activities which is the community room you ask for 20 square foot per dwelling unit, Division of Housing is 50 square feet, so you're not giving me a blanket.

MR. KRIEGER: I have no problem with the board voting on specific variances like that the common space just as he's stated it, he needs to have it varied because it's a variance within New York State code. And if I understand the conversation there's, that's occurred so far it's being made up but it's being compensated for cause New York State Code requires a different allocation of space, shall we say, it's the same space, I have no problem with those specific requirements. I have some problem with sort of general where you don't

have to follow any of it.

MR. MENDELBAUM: No, you have to meet New York State Division.

MR. KRIEGER: I understand the New York State, if there are specific requirements this is what I'm saying at the final hearing you should be repaired to make specific variance requests, we want to vary the common space, however long the list is, there ought to be a list so that somebody after the board is done among other things the building department will know exactly what it is that they're supposed to do or not do.

MR. BABCOCK: We want to follow New York State Code instead of the Town Code under 300-18 (i), that's it.

MR. KANE: Is there away for us to--

MR. BABCOCK: We have to sit with every item.

MS. LOCEY: That's what he's saying, he thinks we should have line item by line item.

MR. BABCOCK: If you want a line item we'll have to do that.

MR. TORPEY: What are we varying?

MR. BABCOCK: The entire section.

MR. TORPEY: I'm fine with that.

MR. KANE: Can you state that in a way that covers that it meets the minimum of New York State requirements for everything in that particular section?

MR. BABCOCK: I think you can say that we're going to give you a variance from 300-18 (i) but you must comply with New York State regulations.

MR. KRIEGER: The essential problem that I have here Zoning Board of Appeals cannot write legislation and this board just granting a blanket variance for some section saying this section doesn't apply is coming very close to creating legislation.

MR. BABCOCK: We can do this.

MR. MENDELBAUM: We'll give you specifics, how's that?

MR. KRIEGER: That's fine, then they don't have to say--

MR. MENDELBAUM: If it makes your life easier.

MR. KRIEGER: It can be specific.

MR. MENDELBAUM: I will meet with your building department and if that will make your life easier we'll be happy to do that.

MR. KANE: Not about making it easy, covering every base and making it legal.

MR. KRIEGER: It's a question of when you get done you don't want to be facing some court challenge because the Zoning Board of Appeals did not do what it was supposed to do and/or did something it wasn't supposed to do. I presume once you're done with this procedure you'd like to be done with it and moving on?

MR. MENDELBAUM: No problem, I'll speak to the building department, we'll get together and we'll go down the code.

MR. KANE: Bring your coffee, we'll be here.

MR. BABCOCK: No, it's a matter of listing all the criteria.

MR. MENDELBAUM: There's not that many.

MR. KRIEGER: If you want to make out a schedule that's fine, doesn't matter whether it's 1, 2, 20 or 30.

MR. BABCOCK: Could I ask could we do this and bring it back at the public hearing or--

MR. KANE: Absolutely.

MR. KRIEGER: Yes.

MR. BABCOCK: That will be fine.

MR. KANE: It's like anything else in the preliminary we're just asking for that so that's not going to delay.

MR. TORPEY: So we're voting on something.

MR. BABCOCK: We could do this within the next few days if you need it. Do you want it in advance of the meeting or just at that meeting?

MR. KRIEGER: If you have it I want to look at that section first and look at the list.

MR. KANE: If it's problematic I want to let you know. The problem becomes do we need to list it individually in the public notice or we can, or how does that go?

MR. BABCOCK: We did the public notice today, it has to be done today for timing in the newspaper and we put in 300-18 (i).

MR. KANE: So what we're going to do there specifically is the specifics of 300-18 (i).

MR. KRIEGER: Public notice is fine because it

encompasses, it's a generality, encompasses the specifics that you're going to propose here, it couldn't work the other way around but it could work this way.

MR. KANE: Okay, that sounds good.

MR. BABCOCK: We'll supply that to Andy within the next few days and if there's any questions we'll get it corrected.

MR. KRIEGER: Send it over to me, if it's problematic I'll get back to you.

MR. KANE: Any further questions from the board?

MS. GANN: For the public hearing can we get a little bit more detail on what the buildings might be looking like?

MR. EWALD: Absolutely.

MR. MENDELBAUM: You might even have something you want from the site plan or the building itself?

MS. GANN: The building, what it will look like, the building.

MR. KRIEGER: Elevations.

MR. MENDELBAUM: We've got a bunch of pictures and we'll bring them.

MR. KANE: Thank you. Further questions? If not, I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of New Windsor Senior Project and the requested variances as detailed on the agenda of the October 22, 2007 Zoning Board of Appeals

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and as further discussed in the preliminary meeting.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PUBLIC_HEARINGS:

ANTHONY_GILLMEIER_(07-43)

MR. KANE: Request for 4.5 foot side yard setback and 6 foot rear yard setback for existing shed at 112 Cedar Avenue.

Mr. Anthony Gillmeier appeared before the board for proposal.

MR. GILLMEIER: Good evening, ladies and gentlemen of the board, Anthony Gillmeier, 112 Cedar Avenue, New Windsor requesting as you mentioned the setback for the 4 1/2 foot side and 6 foot rear setback for existing shed. I was here as part of the preliminary, you have all the pictures. Any questions? I'm not sure what I should do.

MR. KANE: Again, cut down any trees, substantial vegetation?

MR. GILLMEIER: No.

MR. KANE: Create any water hazards or runoffs?

MR. GILLMEIER: No.

MR. KANE: Any easements running through where the deck is located?

MR. GILLMEIER: No.

MR. KANE: The shed rather. Shed's similar in size and nature to other sheds in your neighborhood?

MR. GILLMEIER: Yes.

MR. KANE: How long has the shed been existing?

MR. GILLMEIER: Four years or so.

MR. KANE: Has there been any complaints formally or informally about the shed?

MR. GILLMEIER: There have not.

MR. KANE: And you understand that if it does pass you still need to meet all the building department's requirements for the shed if it does pass?

MR. GILLMEIER: I am.

MR. KANE: And obviously the shed is up on blocks?

MR. GILLMEIER: It's up on the appropriate blocks and Item 4.

MR. KANE: Would you consider it a hardship to move the shed into an area that doesn't require a variance?

MR. GILLMEIER: Yes, because otherwise I'd have done that rather than go through this process, all due respect. That's what my real estate agent said, just move it. I said well, I'd rather not.

MR. KRIEGER: Why not other than the difficulty of an expense of moving it but why was it put there as opposed to--

MR. GILLMEIER: It was my understanding that I needed to be three foot off of my property line, so I was misinformed as to where it needed to be. And I obviously provided more than enough clearance of three foot believing that was in fact the right number and I was told that by someone who actually I thought knew what they were talking about so that's two errors.

MR. KANE: Anybody in the audience for this particular hearing? Seeing as there's not, I will ask Myra, we'll

open and close the public portion, ask Myra how many mailings we had.

MS. MASON: On the 9th day of October, I mailed out 64 addressed envelopes and had none returned.

MR. KANE: Bring it back to the board. Any further questions from the board?

MR. TORPEY: No.

MR. KANE: I'll accept a motion.

MS. GANN: I will offer a motion that we grant the variance for Anthony Gillmeier's request for 4.5 foot side yard setback and 6 foot rear yard setback for existing shed.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

JEFFREY_DUNKO_(07-48)

MR. KANE: Request for 4 foot side yard setback and 5 foot rear yard setback for proposed pool at 2518 Constitution Way.

Mr. Jeffrey Dunko appeared before the board for this proposal.

MR. DUNKO: Jeffrey Dunko. We're looking to install an 18 foot round pool on the side yard of our property. We don't meet the minimum requirements of a 10 foot clearance on the side and rear yard, we only have about 6 feet and 5 feet so looking for a variance on those dimensions.

MR. KANE: And cutting down any trees, substantial vegetation in the building of the pool?

MR. DUNKO: No, not at all.

MR. KANE: Creating water hazards or runoffs?

MR. DUNKO: No.

MR. KANE: Let the record show that the property is on a corner lot so it has two front yards so anywhere you put this pool you would need a variance.

MR. DUNKO: Exactly.

MR. KANE: And being in that business an 18 round pool is about the third smallest you can get, so really it's not a large pool at all.

MR. DUNKO: Right, we particularly chose the 18 round to try to make it as small as possible to fit in the back corner. We also have a round paver patio and a driveway extension that comes up to it so there's really not a, really no room to move it up away from

the rear yard.

MR. KANE: And you also understand if it passes you still have to meet all the requirements from the building department?

MR. DUNKO: Yes.

MR. KANE: Okay, and I'm sure they told you with the new regulations this year about the pool alarms?

MR. DUNKO: Yes, we actually purchased one or will purchase one. Just as far as you're looking at the pictures there's pavers, Belgian block that goes around, there was an existing play yard, a jungle gym that was there so we're replacing what was existing there with the pool.

MR. TORPEY: Any other pools in the neighborhood?

MR. DUNKO: Yes.

MR. KANE: Any easements running through the area where you want to put the pool?

MR. DUNKO: No.

MR. KANE: At this point, I will open the public portion of the meeting and ask if there's anybody in the audience for this particular hearing?

MS. SMITH-SANDS: I have no problems as long as I can swim it in maybe come over.

MR. KANE: I would need your name and address.

MS. SMITH-SANDS: Oh, sure, Pia, P-I-A first name, last name is Smith-Sands, S-A-N-D-S, 2724 Colonial Drive.

MR. KANE: Anybody else? We'll close the public

portion of the meeting and ask Myra about mailings.

MS. MASON: On October 9, I mailed out 61 addressed envelopes and had no response.

MR. KANE: Any further questions from the board? I'll accept a motion.

MS. GANN: I will offer a motion that we grant Jeffrey Dunko's variance request for 4 foot side yard setback and a 5 foot rear yard setback for a proposed pool.

MS. LOCEY: I'll second that motion.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

FRANCES_HALES_(07-51)

MR. KANE: Request for 15.5 foot side yard setback and 2.5 foot total side yard setback and 19 foot rear yard setback for proposed addition at 109 Erie Avenue.

MR. KANE: Just state your name again and tell us what you want to do.

MS. HALES: Frances Hales. We're looking to make a family room in our back of the house and then above it a master bedroom, we'll be just enlarging the existing bathroom upstairs and putting in a half bathroom in the downstairs part. And then we have an existing garage that we need to remove and rebuild and make it a little larger to accommodate vehicles of this century.

MR. KANE: Will you be cutting down substantial trees and vegetation in the building of this?

MS. HALES: No.

MR. KANE: Creating any water hazards or runoffs?

MS. HALES: No.

MR. KANE: Any easements running through the affected areas?

MS. HALES: No.

MR. KANE: With the addition on the house is it going to keep the home similar to other homes in your neighborhood, size and nature, not going to be overly large?

MS. HALES: No, we're only 900 square feet so--

MR. KANE: Currently?

MS. HALES: Currently.

MR. KANE: And this will bring you to?

MS. HALES: I have no idea, 12 to 14 square foot addition so--

MR. KANE: Still a relatively small home.

MS. HALES: Yes, hopefully the taxes will stay the same.

MR. KANE: Can't help you with that one.

MR. BABCOCK: I can help her with that. They won't.

MR. KANE: Public portion of the meeting, is there anybody here for this particular hearing? Seeing as there's not, we'll close the public portion and ask Myra how many mailings?

MS. MASON: On October 9, I mailed out 60 envelopes and had no response.

MR. KANE: Bring it back to the board for further questions. If not, I'll accept a motion.

MS. LOCEY: I will offer a motion to grant the requested variances on the application of Frances Hales as detailed on the Zoning Board of Appeals agenda dated October 22, 2007.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

JOANN_MANGIARACINA_(07-52)

Mr. Charles Brown appeared before the board for this proposal.

MR. KANE: You're on.

MS. LOCEY: Just a detail, the agenda lists the applicant's first name as Joann and the application itself lists it as Joan, I just want to make sure.

MRS. MANGIARACINA: It's Joann.

MS. MASON: Just a typo.

MS. LOCEY: I just didn't want her to have problems later on.

MR. BROWN: I'm Charlie Brown, engineer for the applicant. This is proposed 4 lot subdivision of the 32 acre parcel. As part of that subdivision, an existing barn and silo which are taller than what's required for accessory structures would have to meet side yard setbacks. We would prefer to get a variance for those rather than remove them because they maintain the rural nature of the area.

MR. KANE: And obviously the barn and silo have been existing so there's no worrying about cutting down of trees, vegetation, no water runoffs, there's no easements running through that I can see?

MR. BROWN: That's correct.

MR. KANE: In that particular area?

MR. BROWN: Correct.

MR. KANE: I'm going to cut to the chase here, see if there's anybody in the public for this particular

hearing? We'll close the public portion of the meeting and bring it back to Myra, ask her how many mailings we had.

MS. MASON: On October 9, I mailed out 20 envelopes, 19 from the Town of New Windsor list and one to the Town of Blooming Grove and had no response.

MR. KANE: The silo and the barn are they going to be used or going to just be maintained?

MR. BROWN: Maintained.

MR. KANE: Any further questions from the board?

MR. BABCOCK: If some day the person that owns that lot decides to use the barn and silo there's no issue is there?

MR. KANE: I don't see it as an issue.

MR. BABCOCK: I'd hate to see them locked in.

MR. MANGIARACINA: The barn is used for storage.

MR. KANE: No, I don't think it restricts them from any kind of use, just curiosity.

MR. KRIEGER: It's not a condition so it won't appear as a restriction.

MR. BABCOCK: Okay.

MR. KANE: I'll accept a motion.

MS. LOCEY: I will offer a motion to grant the requested variances on the application of Joann Mangiaracina as detailed on the Zoning Board of Appeals agenda dated October 22, 2007.

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MS. GANN: I'll second the motion.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

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JONATHAN_GODFREY_(07-49)

MR. KANE: Request for 5 foot side yard setback and variance of 300-11-A-3, no accessory building shall project nearer to the street on which the principal building fronts than such principal building for proposed pole barn at 271 Riley Road. Mr. Godfrey? Okay, we'll put this hearing on hold.

LAPIDUS/KOCH_(07-57)

MR. KANE: Request for variance of 4,164 square foot of minimum lot area for lot #1 as referred by Planning Board located on Lake Road.

Mr. Charles Brown appeared before the board for this proposal.

MR. BROWN: I'm Charles Brown, I'm here for the applicant. Proposal is for a 2 lot subdivision, parcel contains existing single family residence. We meet all the criteria including net area except for gross area for the proposed lot containing the existing residence. This is an in-family subdivision, the applicant's brother owns the property and the purpose of this subdivision is such that the applicant, Peggy Lapidus, can build herself a residence on this lot.

MR. KANE: And the existing home will stay on lot 1?

MR. BROWN: Correct.

MR. KANE: Which is the one that needs the variance?

MR. BROWN: Correct.

MS. LOCEY: And the second lot meets all the criteria?

MR. BROWN: Correct.

MS. GANN: Using the same driveway?

MR. BROWN: We would use--

MR. KANE: No.

MR. BROWN: Actually, no.

MR. TORPEY: Looks like a little bridge there.

MR. BROWN: There's a culvert just to the north.

MR. KANE: The existing unpaved driveway that runs in lot number 2, is that the driveway that goes to that house on lot 1?

MR. BROWN: Right.

MR. KANE: Will there be an easement on that driveway?

MR. BROWN: There's an easement for that driveway across lot 2, right.

MR. KANE: Okay, at this point what we'll do is we'll open it up for the public, since it's all that's left and ask you for any comments that you have or any questions that you have. Please state your name and address so this young lady can hear you and get it on record.

MS. BOWIE: My name is Lynn Bowe, 262 Lake Road. We're on Beaver Dam Lake so I have some concerns, I guess the trees, I've heard you asking questions tonight about substantial tree removal or brush removal. I guess that's my concern because now the home will be in our view.

MS. LAPIDUS: We're leaving as many trees as we can.

MS. BOWE: I figured Dan would be doing that. The other question concerns the sewer easement that I have on my property so I guess I was curious where the sewer line would be running and does it affect the sewer lines on my property at 262?

MR. BROWN: It wouldn't affect that, the sewer line for the proposed residence that would have to be approved by the planning board. This is again one step of the process. After this, we go before the planning board

and that's when the technical issues would be addressed as far as servicing the residence for sewer and water and whatnot. There are, it's not a heavily wooded parcel, there are several large trees.

MS. BOWE: I guess the trees along the creek?

MR. BROWN: They would remain.

MS. BOWE: The property seems to contain the creek.

MR. BROWN: Correct.

MS. BOWE: There's also, I don't think the flood plain is an issue because we're above so that's not going to cause any water issues, I guess trees on either side of the creek was my concern, the house is closer to the creek.

MR. TORPEY: But that's the planning board, this is just for lot size.

MS. BOWE: Okay, so my question--

MR. KANE: Certain things are out of our realm.

MR. BROWN: We'll get another public hearing at the planning board.

MR. KRIEGER: So that you understand the process if he receives a variance here, they still have to appear in front of the planning board for approval of the two lot subdivision. It's at the planning board that questions involving sewer and so forth, specific questions will be addressed. So this isn't the, regardless of the action of this board it isn't his last step.

MR. KANE: Basically, it comes down to keep it really simple, this board decides if they're allowed to do it and the planning board decides how they do it.

MS. BOWE: Myra and I talked today so I was told this was the time to ask questions.

MR. KANE: Certain ones but the ones you're asking are in their realm.

MS. BOWE: So there's still another step?

MR. KANE: You're maintaining the trees around the brook?

MR. BROWN: Trees along the brook will remain.

MR. BABCOCK: They're going to drill a well, there's no town water.

MR. KANE: They're going to hook up to the town sewer.

MR. BABCOCK: We will not give them a permit unless they do hook up, they'll have to drill a well, they're going to have to give us the well test to certify to us that it is adequate water and good water or they can't occupy the house. Just so you know, you had spoke that the planning board will have a public hearing, that's not necessarily true on a 2 lot subdivision, they can waive that requirement sometimes in instances like this where it's a single-family home within amongst a bunch of other single family homes they do sometimes waive it.

MS. MASON: They usually do.

MS. BOWE: So I'm asking at the right meeting?

MS. LOCEY: It's still not questions that we can answer.

MS. BOWE: Would they ever cut across the creek with a sewer line or across county property?

MR. KANE: No.

MS. BOWE: Then that clears up the sewer issue in my mind.

MR. BROWN: Write a letter to the planning board and ask that they do hold public hearing for this application as part of their action.

MR. KRIEGER: At least ask that they address your concerns.

MS. BOWE: Unless I'm comfortable, I know Dan, I've met Dan.

MR. BABCOCK: You should really go talk, as I said before that they cannot get a building permit unless they get a sewer permit, they've got to show us where they're going to tie into the sewer or else they cannot do it. They have to drill a well, they have to supply us with the well test of the water and the quality of the water and the amount of water. And as far as the stream, they're going to have to do any, to do anything to that stream they're going to have to get all kinds of approvals from us, from highway.

MS. BOWE: That was my impression, I guess I just had to be sure, it is the lake, it's the view, it's, I mean, I used to think I could look around and nothing would develop. So this was a surprise. Okay, that was it, aesthetics was my concern.

MR. KANE: Other than that, any opinion on the project?

MS. BOWE: No, no, we just, that was the only thing. You guys are aware of the driveway it's on a tough turn?

MR. BABCOCK: He's going to have to get a driveway

permit that has to get approved by the highway superintendent before we give him a building permit.

MR. KANE: From the looks of it the same entrance is, from the looks of this map right here the same entrance they're going to be right next to each other.

MR. BABCOCK: There's no doubt that the highway superintendent has seen this, that's probably why he has an easement over lot 1 or 2, whatever the numbers are, so the driveway is coming in at the same spot.

MS. BOWE: This is a tough spot, you can't even walk on the road safely, so it's getting out of the driveway it's obvious that it's an issue, okay.

MR. KANE: Thank you. Anybody else for this particular hearing? At this point then we'll close the public portion of the meeting, bring it back to the board, ask Myra how many mailings.

MS. MASON: On October 9, I mailed out 49 addressed envelopes and had no response.

MR. KANE: Bring it back to the board for further questions?

MS. LOCEY: No questions.

MR. KANE: I'll accept a motion.

MS. LOCEY: I will offer a motion to grant the requested variance on the application of Lapidus/Koch as detailed on the Zoning Board of Appeals agenda dated October 22, 2007.

MS. GANN: I'll second the motion.

ROLL CALL

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MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: We do have a meeting on November 5. Motion to adjourn?

MS. GANN: So moved.

MS. LOCEY: Second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer